

Appl. No. 10/709,662
Amdt. dated January 30, 2008
Reply to Office action of November 14, 2007

REMARKS/ARGUMENTS

Claim Amendment

Claims 1, 12 are amended according to examiner's opinion.

Also, steps (a), (b) and (c) of claim 1 are amended to more clearly define the claimed feature, which is fully supported by the description in paragraph 55 of the presented disclosure. Related amendments are also made to claims 2 and 4. Besides, claim 7 is amended according to the description of paragraph [0064] of the applicant's disclosure.

10 Claim Rejections – 35 USC 112

The Examiner stated in the Office action dated 11/14/2007 that the claims 1-15, 21-22, and 26-28 are rejected under 35 U.S.C 112 due to various reasons.

Response

Claims 1, 12, are amended according to examiner's opinion, thus the rejection thereof under 35 U.S.C 112 should be overcome.

Besides, claim 7 is amended according to the description of paragraph [0064] of the applicant's disclosure, thus the rejection thereof under 35 U.S.C 112 should be overcome. Also, since claims 16~29 are cancelled, the rejection of claims 21-22, 26-28 under 35 U.S.C 112 no longer exist.

Claim Rejections – 35 USC 102

Claims 1, 2, 6, 7 and 15 are rejected under 35 U.S.C. 102(a) as being anticipated by admitted prior art (hereinafter "APA").

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Response

Claim 1

Claim 1 includes the limitation of “*(a) providing a plurality of candidate images on the image display device after capturing an image according to an image-capture control signal; (b) selecting an image from the plurality of candidate images*” . However, APA (paragraph 13 of applicant’s disclosure) discloses that the image display device 10 captures an image data according to an image-capture control signal and the encoder 14 encodes this captured image data to generate an encoded image data. Paragraph 13 of APA fails to teach or suggest the limitation of claim 1. Specifically, APA discloses capturing only one image data from a dynamic image file (step 100 in paragraph 6), encoding the only one image data and decoding the image data (steps 102~108), and displaying the decoded image data (step 110). Accordingly, the concept disclosed in APA and the applicant’s disclosure is different.

In fact, paragraph 16 in the specification of applicant’s disclosure has specifically indicates the difference between prior art and the applicant’s disclosure “*In the prior art method of generating a user’s favorite logo for the image display device 10, a user can use the image display device 10 to select a captured image to be used as an image data for generating a user’s favorite logo. However, the image display device 10 cannot provide the user with a plurality of image data from which a user can select a desired one for generating the user’s favorite logo.*

” (emphasis added)

An advantage of the claimed method of claim 1 over APA is to provide assistance to the user to obtain a best image. For example, if the user presses a key to capture an image of the dynamic image file and wishes to capture the moment of his idol hitting a baseball, method of APA only stores one image in the memory, and this stored image may not be exactly the desired image, the best moment might be few milli-seconds ahead. The claimed method tries to solve the problem by keeping a plurality of candidate images when an image-capture control signal is issued, not only the image shown at the moment of issuing the image-capture control signal is kept, a combination of images displayed before or/and after that image is also kept as the candidate images. The user can select a best image out of the kept candidate images.

Therefore, in light of above-mentioned statements, the applicant asserts that APA of the

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applicant's disclosure fails to teach or suggest all of the limitations of claim 1, Thus the rejection of claim 1 under 35 U.S.C. 102 (b) should be overcome.

Claims 2, 6 and 15

5 The applicant respectfully points out that the limitations in claims 2, 6 and 15 are not anticipated by teachings of APA. Additionally, claims 2, 6 and 15 are dependent upon claim 1, and should be allowed if claim 1 is found allowable.

Claim 7

10 Claim 7 includes the limitation of "keeping an existing image data in the first memory before performing step (d); wherein step (d) stores the encoded image data to the first memory". (*emphasis added*) That is, claim 7 stores two kinds of data, existing image data and encoded image data, to the memory if both kinds of data exist. However, APA (paragraph 14 of the applicant's disclosure) only discloses: encoding an image data; checking if the space in the flash memory 16 is enough to store the encoded data; if no, regenerate an encoded image 15 data; if yes, rearrange the empty clusters of the flash memory 16 to rearrange a single, continuous, empty section. Therefore, APA (paragraph 14 of the applicant's disclosure) fails to teach or suggest the limitation of claim 7, and the rejection of claim 7 under 35 U.S.C. 102 (b) should be overcome. Besides, claim 7 is dependent upon claim 1, and should be allowed if claim 1 is found allowable.

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Claim Rejections – 35 USC 103 (a)

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA and Dyas et al US 6,504494.

25 **Response**

Claim 3

Note is made by the applicant that MPEP 2140.01a, subsection I "TO RELY ON A REFERENCE UNDER 35 U.S.C. 103, IT MUST BE ANALOGOUS PRIOR ART," recites:

"The examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be **reasonably pertinent to the particular problem with which the inventor was concerned.**" *In re Oetiker*,

5 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) ("**A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem.**"

10

According to above-mentioned paragraphs, a reference should be in the same field or have the same purposes as the applicant's disclosure, if the reference is an analogous prior art of the applicant's disclosure. Since the disclosure of Dyas is utilized in a digital camera, while the applicant's disclosure is utilized in an image display device for generating a logo from a dynamic image file, the fields thereof are different.

15 Dyas and APA cannot be reasonably combined, and the rejection of claim 3 under 35 U.S.C. 103(a) should be overcome. Besides, claim 3 is dependent upon claim 1, and should be allowed if claim 1 is found allowable.

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Claim 4
In view of above arguments of claim3, the applicant points out that Dyas and APA cannot be reasonably combined. Claim 4 of the applicant's disclosure includes the limitation of "*detecting the size of the image data selected in step (b), and step (h) further comprising quantizing the image data selected in step (b) according to the size of the image data*".

25 Since the image data is quantized according to the size of the image data and the size is not constant, the quantization sizes of the image data in claim 4 are not the same for each quantization. However, since column 4 lines 45-55 of Dyas disclose that the quantization size is determined to achieve a predetermined file size, the quantization sizes are the same for each quantization. (*emphasis added*)

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Besides, claim 4 is dependent upon claim 1, and should be allowed if claim 1 is found allowable.

Claim 5 and 8

5 Claims 5 and 8 are dependent upon claim 1, and should be allowed if claim 1 is found allowable.

Claim Rejections – 35 USC 103 (a)

10 Claims 9-10, 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Seto et al US 6,335,979.

Claims 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of Seto et al US 6,335,979 and common knowledge in the art.

Response

15 **Claims 9-14**

Claims 9-14 are dependent upon claim 1, and should be allowed if claim 1 is found allowable.

20 **Claim Rejections – 35 USC 103 (a)**

Claims 16-29 are rejected under 35 U.S.C. 103(a) due to the rejection reasons of corresponding claims and applicants admission of a non-distinct species.

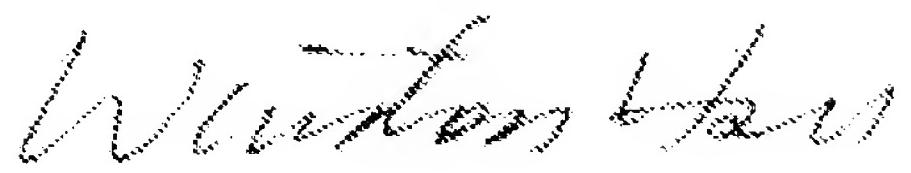
Response

25 Claims 16-29 are cancelled.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

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Sincerely yours,



Date: 01.30.2008

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